

Minutes

DAGSBORO TOWN COUNCIL

Bethel Center – 28307 Clayton Street

Monday, April 17, 2017

I. CALL MEETING TO ORDER

6:00 p.m.

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Norwood Truitt, Council Members Patrick Miller, William Chandler, and Theresa Ulrich, Town Administrator Cynthia Brought, and Attorney Rob Witsil. Engineer Kyle Gulbranson was absent. George Bendler from AECOM was present to fill in for Kyle Gulbranson. See attached sign in sheet for other members of the audience.

II. PUBLIC COMMENT

There was no public comment made from the audience. Mayor Baull shared information on the National Day of Prayer event coming up on May 4th and a Relay for Life fundraiser at the Clayton Theater on May 2nd.

III. APPROVAL OF MINUTES

- a. March 20, 2017 – Town Council Meeting
- b. March 20, 2017 – Town Council Executive Session

A motion to approve the meeting minutes for the Town Council Meeting and the Executive Session on March 20th was made by Councilman Chandler and seconded by Vice-Mayor Truitt. All in favor.

IV. CONSENT AGENDA

- A. Police Department Report
- B. Treasurer's Report
- C. Administrative Report

Town Administrator Brought informed the Council of her meeting with Duane Fox, the Sussex County Fire Marshal. Mr. Fox gave some brochures and information about what new businesses moving into town should expect. This will be helpful, especially since there have been some changes in requirements seen recently. He also is planning on coming back to look at Shipwrecked with the person that shut down the second floor to see if they can find a solution to help the business open the second floor. Town Administrator Brought felt the meeting was worthwhile and has now given her a contact with problems or questions that the town may have.

- D. Economic Development Committee
- E. Building Official Report

F. Code Enforcement Report

Councilman Chandler asked Town Administrator Brought to look into a few things. The first item is to check on the dumpsters that should have screening around them, as noted in Section 75-35. Town Administrator Brought mentioned that this ordinance should be looked at by the Town Council for clarification. Councilman Chandler also has noticed signs around town that are placed in the easements and are in violation according to Section 275-71 of the town code. Councilman Chandler will send Town Administrator Brought specifics of the violations to these two ordinances.

Councilman Chandler suggested the Town of Dagsboro set an example for others in the town and try to make the town look more visually attractive and inviting. He agrees with Cindy Gallimore (who presented at a past meeting a suggestion for fixing the signs coming into town) and has been reaching out to people to get them involved. Mayor Baull also contacted the leader of the FFA at Indian River High School and is waiting to hear back if the students would be interested in working on this as a project. Town Administrator Brought informed the Council that she recently spoke with Cindy and the sign on the highway may need adults to fix it up to get it ready to plant, but that then students could do the planting. Councilman Chandler has also been in contact with Southern States and Lowe's about donating plants to a cause.

G. Meeting Reports

H. Water Department Report

I. Prince George's Chapel Cemetery Report

J. Correspondence

Motion to approve the consent agenda was made by Councilman Chandler and seconded by Vice-Mayor Truitt. All in favor.

V. PLANNING & ZONING COMMITTEE

A. Change from the 1st Wednesday due to SCAT meetings

Planning and Zoning meetings will be on the second Thursday of each month and Town Administrator Brought has already scheduled this with Bethel Center.

Councilman Chandler asked if the committee is meeting every month. Town Administrator Brought replied that they are because they are looking at the ordinances (specifically, the signs currently) to clarify them.

VI. NEW BUSINESS

A. 2016 Audit Presentation by PKS

Andrew Haynie from PKS gave a brief overview of the Town Audit. They are giving an Unqualified Opinion, which is the highest opinion. They do recommend, with such a small staff, to be mindful of the

controls. He did state it is a plus that the Mayor and Town Council are involved and there are already controls in place. The other recommendation is to be sure financial statements are in accordance with government policies and standards.

Even in spite of the staff turnover, the Town passed the Invoice Test, as there were no problems locating invoices. Mr. Haynie also pointed out that the General Fund had an increase this year and the Undesignated Fund increased, as well. The total revenue was down slightly this year from last year, however, last year a grant skewed the numbers slightly. The expenditures decreased this year, but again that is due to the grant from last year, and they were still less than the revenue. Public Safety expenditures increased slightly, by 3% this year. The budget was almost as close as it can get for the year.

Councilman Chandler asked Mr. Haynie to clarify what is considered, "General Government." Mr. Haynie clarified that it is office salaries, insurance wages, accounting fees, general maintenance, general legal fees, anything related to the office. Almost anything that does not fall under Public Safety or the Water Department, falls under General Government.

The Water Fund has had a loss of about \$41,000, most of which is due to depreciation. However, Mr. Haynie does not want depreciation to be disregarded because it represents future repairs and future replacement of the infrastructure. Without the depreciation, there was a profit in the cash flow, but many times repairs for utilities are unplanned for and expensive so the depreciation should not be ignored. Mr. Haynie suggested that even though it is not a cash loss, he would like the numbers to be closer to breaking even. Collections are good for the department, but there are some older, outstanding accounts. Impact Fees were down quite a bit, but the previous two years were high due to a lot of development. Mr. Haynie also suggested that maintenance is an area to really be aware of in the Water Department because it can be very costly for repairs and maintenance on a water system.

Councilwoman Ulrich asked for clarification on some of the numbers for the water department and if Mr. Haynie would have any recommendations. Mr. Haynie replied that the services charges were down a little, but that a big part of it is the maintenance. He stated that in the past, having the correct water meter readings was a concern, but this year it was not a red flag for him. He does recommend that there would be more cash availability to avoid potential repair problems. He offered to share some resources with the town to get more information on this area.

Mrs. Dina Mach, Town resident and retired CPA, mentioned that she heard in the past how some expenses were allocated to the water (i.e. the police drive by the water tower so some of their wages should be from water). Mr. Haynie replied that the only allocation he is aware of is for some of the general government because staff in the office prepare the bills, handle the receivables, etc. and even that allocation is not a large portion. He stated that the biggest expenses for the Water Department are repairs, depreciation, and what Millsboro is paid for the water. Vice-Mayor Truitt replied that part of the Town Administrator salary is from the Water Department. Mrs. Mach stated that she had previously suggested quarterly billing to reduce the time that the staff spends on the water. Councilwoman Ulrich responded that originally the billing was quarterly, but a \$120 bill, plus overages (if customers had any) was more difficult to pay and billing monthly was easier.

Councilman Chandler asked Mr. Haynie how the town is doing compared to other municipalities and if there were any issues with management. Mr. Haynie replied that his only concern is the Water

Department and deficit of just under \$50,000 over the five year span and that there were no issues with management. Leslie Aguillion, also from PKS, also responded that anything the auditors could not find, they would ask for and the staff would find it and that the staff will call now with questions instead of just assuming something should be done a certain way.

B. Nomination for Board of Adjustment; Ed Burton resigned

There is currently a third position open. Recommendations for the position will continue to be considered.

C. Cemetery Committee – Discussion on items from November 2016 meeting minutes

1. Civil Penalties
2. Review and discuss changes made to the Rules and Regulations
3. Upcoming meeting May 7th at 2:00 p.m.

Town Administrator Brought spoke on behalf of the committee. They are wondering if they can instill the civil penalties, as needed. She has also been in contact with Kurt Czapp to do some needed repairs on the General Dagworthy Monument. Vice-Mayor Truitt asked if they will be working on a new plot map. Town Administrator Brought replied that they will be – Gayle Chandler (from the committee), Bob Flowers (maintenance), herself, and Doug Brown (from Melson Funeral Homes), will be working on that together. Mayor Baull also volunteered to walk the grounds with them for this project.

VII. OLD BUSINESS

A. Dagsboro Fire Company – Sign review by Town Council

Mr. Wayne Bowden was present to represent the Dagsboro Volunteer Fire Company and asked if there were any questions. Councilwoman Ulrich asked about the size of the sign in relation to the sign at the high school. Mr. Bowden replied that he didn't think it would be that big, but that he didn't know the exact size of the high school sign. Town Administrator Brought mentioned that one question she had been asked is if the lettering that is lit up would be blinking. Mr. Bowden clarified that it would not be blinking – it would be the simple lettering and then change to show the next item. He also shared the material that will be for the sign on the building itself.

Attorney Witsil recommended to the Town Council that this is the time for them to regulate the electronic sign and asked Mr. Bowden to be as specific as possible. Mr. Bowden replied that it would be a black background and mostly red lettering, it would advertise town events, fire company messages, and similar items. It won't be scrolling or blinking. Attorney Witsil asked if there would be any advertising for other businesses off-site, other than town events. Mr. Bowden, with confirmation from the Fire Company President (Al Townsend), stated that as of right now, they do not plan to do that. Councilwoman Ulrich asked if they rent out the firehouse for weddings or other events that would affect the sign. Mr. Townsend replied that they do not rent out this firehouse. Councilwoman Ulrich also asked where the sign will be placed and if it will be on twenty-four hours a day. Mr. Townsend replied that the sign will be near the Lingo Street entrance and it will be on so that people do not miss the messages. Attorney Witsil asked how long a message would be displayed before changing to another item, if it would be one minute or two minutes or something else. Mr. Bowden replied that at this time they do not know. Mr. Townsend also replied that changing every ten seconds to him, is a flashing sign and that

he is sure there would be settings for them to adjust the time. Councilman Chandler proposed that if there is more than one message, they be set for ten minutes apart, but that if the fire department finds out that does not work, they can come back before the Council to re-evaluate the time. Vice-Mayor Truitt asked if there are no events, what would be done. Mr. Townsend replied that in that case, they might have a message about smoke detectors or a burning ban that is occurring or a similar item.

Councilwoman Ulrich asked if the sign that shows the Dagsboro Volunteer Fire Company part would be lit as well. Mr. Bowden responded it will be lit from the inside; there will not be a spotlight. Councilman Chandler asked if that light would be on all the time or only at night. Mr. Bowden responded it will be on from dusk to dawn. Mr. Townsend let the council know that if there is a change that needs to be made, they can sit down and discuss it and make changes. Mr. Bowden confirmed they want to work with the town and if there are any questions, the council can contact him. Councilman Chandler asked Mr. Bowden what he feels would be a reasonable time between messages. Mr. Bowden, in driving around to look at other signs, noted that others usually stay on between two and five minutes. Mr. Townsend suggested five minutes would be a good start and then it can be looked at again if they feel it needs to be changed.

Attorney Witsil summarized that so far they are approving a black background with red lettering, a time and temperature display is okay, there will be no flashing and no animation, it will be for Dagsboro Fire Department functions and town functions, there will be a five minute minimum sign interval, the other part of the sign that is lit will be from dusk to dawn, and that the conditions can be revised by the Town Council at the fire department's request. Mr. Townsend mentioned that sometimes other fire departments will advertise their events and asked if it would be allowed for them to do the same, as long as it stays within the fire service. Town Council agreed and Attorney Witsil added "other fire department functions" to the list of provisions.

Councilman Chandler made a motion to approve the sign with the above provisions stated by Attorney Witsil. Councilwoman Ulrich seconded the motion. All in favor.

- B. Public Information: Town Administrator Contract effective 4/2/17; salary increase for Town Clerk effective 4/2/17

Councilman Chandler had requested that this be added to the meeting due to the fact that after the last executive session, there were no remaining audience members present. He stated that this was voted on in the public session, upon exiting the executive session.

- C. Report from Robert Witsil, Town Attorney, regarding Hearn/Bierley Property Request

Attorney Witsil informed the council that he has been in contact with a person at the Sussex County Planning office who had mentioned to him the application of Title 22, Section 105 to the de-annexation process. He carefully reviewed that section and noted that it requires an election for withdraw or removal of a property from a city or town by a General Assembly. In looking at this, he determined that Section 105 of Title 22 is not applicable to this situation and that there is no Delaware law applicable to this situation, except for the Town Charter (which is silent to this situation). He stated there are two choices: first to go to the General Assembly and the Governor with a charter change for de-annexation of lands from the town; second they can move forward with the procedure that he had proposed previously, which is a resolution approving the rescission of the property and an ordinance changing the

zoning map to reflect the withdraw or the rescission of the property and that Sussex County government will acquire jurisdiction of the property, both governmentally and the zoning over the subject property. It is the best solution he has. He believes it is expensive, cumbersome, and tiring, and not absolutely necessary to go to the General Assembly. He recommends that this be added to the agenda for next month's meeting to entertain both the resolution to have the property withdrawn from the town and the ordinance to change the zoning map. He recommends that they have the public hearing, but not to make a decision that night.

Councilman Chandler abstained from sharing his opinion, as this involves a family member.

****At this time, the recorder stopped working. The Town Administrator tried to get it started again, but to no avail. Any remaining minutes are completed with notes.****

There was a long discussion of the pros and cons of de-annexation, as well as the legal issues related thereto, among the Council and its attorney, with the Council ultimately concluding, on the recommendation of its counsel, that a public hearing should be set for a vote on the de-annexation as recommended by the Annexation Committee. A motion was made and seconded to that effect, with all in favor (Mr. Chandler abstaining).

D. The Woodlands – Streets and Sidewalks issue

Councilman Chandler stated that this has now had two years since the Town Council approved adding sidewalks and it is time to set a limit for the top coating and streets to be done.

Mrs. Dina Mach, a resident in The Woodlands, mentioned that there are drainage issues at the lower end of Shady Creek Lane, as well. She suggested that the drains may be clogged or are not situated properly. They have tried to clean them out and contacted Sussex County Conservation District, but have not received a response.

Fernmoor Homes is not cooperating with this situation and Town Council suggested holding the bond and withhold future occupancy permits and/or rescind their approval of Phases II and III. They would like David Steele of Fernmoor Homes to be contacted and put on the agenda for next month's meeting.

Bob Flowers, maintenance for the town, confirmed that the sidewalks were supposed to be done in place of the community having walking trails.

VIII. PUBLIC COMMENT

There were no additional public comments made.

IX. ADJOURNMENT

A motion to adjourn the meeting was made by Councilman Chandler and seconded by Councilwoman Ulrich. Meeting was adjourned at p.m.

Respectfully submitted by;

Megan Thorp
Town Clerk